

House Bill 194

By: Representatives Burkhalter of the 50th, Ehrhart of the 36th, Harbin of the 118th, and Abdul-Salaam of the 74th

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions regarding state income taxation, so as to change certain provisions regarding income tax credits for employers providing approved retraining programs; to provide for a definition; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the state revenue commissioner; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions regarding state income taxation, is amended by revising Code Section 48-7-40.5, relating to tax credits for employers providing approved retraining programs, as follows:

"48-7-40.5.

(a) As used in this Code section, the term:

(1) 'Approved retraining' means employer provided or employer sponsored retraining that meets the following conditions:

(A) It enhances the functional skills of employees otherwise unable to function effectively on the job due to skill deficiencies or who would otherwise be displaced because such skill deficiencies would inhibit their utilization of new technology;

(B) It is approved and certified by the Department of Technical and Adult Education; and

(C) The employer does not require the employee to make any payment for the retraining, either directly or indirectly through use of forfeiture of leave time, vacation time, or other compensable time.

(2) 'Cost of retraining' means direct instructional costs as defined by the Department of Technical and Adult Education including instructor salaries, materials, supplies, and

1 textbooks but specifically excluding costs associated with renting or otherwise securing
2 space.

3 (3) 'Employee' means any employee resident in this state who is employed for at least
4 25 hours a week, who has been continuously employed by the employer for at least 16
5 consecutive weeks.

6 (4) 'Employer' means any employer upon whom an income tax is imposed by this
7 chapter.

8 (5) 'Employer provided' refers to approved retraining offered on the premises of the
9 employer or on premises approved by the Department of Technical and Adult Education
10 by instructors hired by or employed by an employer.

11 (6) 'Employer sponsored' refers to a contractual arrangement with a school, university,
12 college, or other instructional facility which offers approved retraining that is paid for by
13 the employer.

14 (7) 'Qualifying airline' means any employer which is authorized by the Federal Aviation
15 Administration or appropriate agency of the United States to operate as an air carrier
16 under an air carrier operating certificate and which provides regularly scheduled flights
17 for the transportation of passengers or cargo for hire.

18 (b) A tax credit shall be granted to an employer who provides or sponsors an approved
19 retraining program. The amount of the tax credit shall be equal to one-half of the costs of
20 retraining per full-time employee, or \$500.00 per full-time employee, whichever is less, for
21 each employee who has successfully completed an approved retraining program. No
22 employer may receive a credit if the employer requires that the employee reimburse or pay
23 the employer for the cost of retraining.

24 (c)(1) Except as provided in paragraph (2) of this subsection, any Any tax credit claimed
25 under this Code section for any taxable year beginning on or after January 1, 1998, but
26 not used for any such taxable year may be carried forward for ten years from the close
27 of the taxable year in which the tax credit was granted. The tax credit granted to any
28 employer pursuant to this Code section shall not exceed 50 percent of the amount of the
29 taxpayer's income tax liability for the taxable year as computed without regard to this
30 Code section.

31 (2) With respect to a qualifying airline, any tax credit claimed under this Code section
32 for any taxable year beginning on or after January 1, 1998, but not used for any such
33 taxable year may be carried forward from the close of the taxable year in which the tax
34 credit was granted to a period ending December 31, 2008. The tax credit granted to any
35 qualifying airline pursuant to this Code section shall not exceed the amount of the
36 taxpayer's income tax liability for the taxable year as computed without regard to this
37 Code section.

(d) To be eligible to claim the credit granted under this Code section, the employer must certify to the department the name of the employee, the course work successfully completed by such employee, the name of the provider of the approved retraining, and such other information as may be required by the department to ensure that credits are only granted to employers who provide or sponsor approved retraining pursuant to this Code section and that such credits are only granted to employers with respect to employees who successfully complete such approved retraining. The department shall adopt rules and regulations and forms to implement this credit program. The department is expressly authorized and directed to work with the Department of Technical and Adult Education to ensure the proper granting of credits pursuant to this Code section.

(e) The Department of Technical and Adult Education is expressly authorized and directed to establish such standards as it deems necessary and convenient in approving employer provided and employer sponsored retraining programs. In establishing such standards, the Department of Technical and Adult Education shall establish required hours of classroom instruction, required courses, certification of teachers or instructors, progressive levels of instruction, and standardized measures of employee evaluation to determine successful completion of a course of study.

(f) In the case of a qualifying airline:

(1) Any tax credits with respect to retraining approved by the Department of Technical and Adult Education on or before December 31, 2001, which have been claimed for a taxable year ending on or before December 31, 2001, and which are available to be carried forward to a taxable year ending after December 31, 2001, may be taken in whole or in part as a credit against a qualifying airline's quarterly or monthly payment required to be made under Code Section 48-7-103 on or after the first calendar quarter beginning on or after the effective date of this subsection. The taxpayer may file an election with the commissioner to take such credit in whole or in part against quarterly or monthly payments under Code Section 48-7-103 that become due before the due date of the income tax return on which such credit may be claimed. In the event of such an election, the commissioner shall confirm with the taxpayer a date, which shall not be later than 30 days after receipt of the taxpayer's election, when the taxpayer may begin to take the credit against such quarterly or monthly payments. Nothing in this subsection shall be construed to allow a credit to be utilized beyond the period during which a credit may be carried forward under paragraph (2) of subsection (c) of this Code section; and

(2) Each employee whose employer receives credit against such qualifying airline's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the

1 application of the credit provided for in this subsection. Credits against quarterly or
2 monthly payments under Code Section 48-7-103 and credits against liability under Code
3 Section 48-7-20 established by this subsection shall not constitute income to the taxpayer.
4 (g) The commissioner shall promulgate such rules and regulations as are necessary to
5 implement and administer this Code section."

6 **SECTION 2.**

7 This Act shall become effective upon its approval by the Governor or upon its becoming law
8 without such approval.

9 **SECTION 3.**

10 All laws and parts of laws in conflict with this Act are repealed.